

RCE 11636

PTO/SB/30 (08-03)

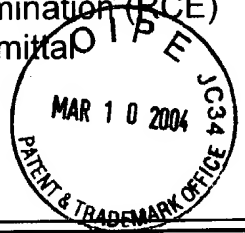
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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Request For Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



Application Number	09/404,979
Filing Date	September 22, 1999
First Named Inventor	Gopal
Art Unit	1636
Examiner Name	T. McKelvey
Attorney Docket Number	020728.0101PTUS

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☒ Affidavit(s)/Declaration(s)
- iii. ☒ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. 1.17(i) required)
- b. ☐ Other _____

3. **Fees** The RCE fee under 37 C.F.R. 1.17(e) is required by 37 C.F.R. 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-2228
- i. ☐ RCE fee required under 37 C.F.R. 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☒ Check in the amount of \$ 860.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print /Type)	Kellie L. Carden	Registration No. (Attorney/Agent)	52,696
Signature	<i>Kellie L. Carden</i>	Date	3/10/04

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:

Name (Print /Type)		Date	
Signature			

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/11/2004 558ND62A 09000023 09404979

**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 860**Complete if Known**

Application Number	09/404,979
Filing Date	September 22, 1999
First Named Inventor	GOPAL
Examiner Name	T. McKelvey
Art Unit	1636
Attorney Docket No.	020728.0101PTUS

METHOD OF PAYMENT (check all that apply)
☒ Check ☐ Credit card ☐ Money ☐ Other ☐ None
Order
☐ Deposit Account:Deposit
Account
Number
50-2228Deposit
Account
Name
Patton Boggs LLP

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee
 to the above-identified deposit account.
FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 0)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

	Total Claims	Extra Claims	Fee from below	Fee Paid
Total Claims	-20 **	0	X	0
Independent Claims	-3 **	0	X	0
Multiple Dependent			X	0

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2)

(\$ 0)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	475.00
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	385.00
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 860)

SUBMITTED BY**Complete (if applicable)**

Name (Print/Type)	Kellie L. Carden	Registration No. (Attorney/Agent)	52.696	Telephone	703-744-7919
Signature	Kellie L. Carden	Date	March 10, 2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Gopal

Group Art Unit: 1636

Serial No.: 09/404,979

Examiner: McKelvey, T.

Filed: September 22, 1999

For: PEPTIDE-MEDIATED GENE TRANSFER

INFORMATION DISCLOSURE STATEMENT

☐ Box Non-Fee Amendment
Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In accordance with 37 C.F.R. §1.56, the attention of the Patent and Trademark Office is directed to the cited reference(s) listed on the attached PTO/SB/08A and PTO/SB/08B. The cited references are believed to be the most relevant known to Applicant(s) and/or Assignee at this time concerning the invention as claimed in the above-captioned patent application. No representation is made or intended that more relevant information does not exist or that the order of presentation of the information in any way reflects their relative pertinence.

Applicant(s) respectfully request(s) that each of the cited information be expressly considered during the prosecution of this application and that the cited reference(s) be made of record therein and appear among the "References Cited" on any patent to issue therefrom. If required, a copy of each reference is attached.

- ☒ 1. This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. Thus, no certification or fee is required.
- ☐ 2. This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Action or Notice of Allowance. 37 C.F.R. §1.97(d).

CERTIFICATE OF MAILING (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

☐ Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: _____

Signature

- ☐ a. I hereby certify that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. §1.97(e)(1). Thus, it is believed that no fee is required.
- ☐ b. I hereby certify that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. §1.97(e)(2). Thus, it is believed that no fee is required.
- ☐ c. In payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ i. Attached is a check for the amount of \$180.00.
- ☐ ii. Please charge Deposit Account No. for the amount of \$180.00.
- Please credit or debit Deposit Account No. as needed to ensure consideration of the disclosed information. A duplicate copy of this paper is attached.
- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Action or Notice of Allowance, but before payment of the Issue Fee. Applicant(s) petition(s) that the Information Disclosure Statement be considered. For payment of the petition fee (37 C.F.R. §1.17(p)):
- ☐ i. Attached is a check for the amount of \$130.00.
- ☐ ii. Please charge Deposit account No. for the amount of \$130.00.
- ☐ Please credit or debit Deposit Account No. 50-2228 as needed to ensure consideration of the disclosed information. A duplicate copy of this paper is attached.
- ☐ a. I hereby certify that each item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. §1.97(e)(1).
- ☐ b. I hereby certify that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to my knowledge after making reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. §1.97(e)(2).
- ☐ 4. The reference(s) was/were cited in a counterpart foreign application. For the Examiner's information, a concise explanation of the relevance, as it is presently understood by the individual designated in Section 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language, is attached hereto.

- ☒ 5. It is believed that no fees are due. However, if necessary please charge deficient fees, or credit any overpayment of fees associated with this communication to Deposit Account No. 50-2228.

Respectfully submitted,
PATTON BOGGS, LLP

Date: 3/10/04

Registration No. 52,696
Tel. No.: 703-744-7919
Fax No.: 703-744-8001

By: Kellie L. Carden
Kellie L. Carden
Customer No. 32042

Substitute for form 1449A/PTO

Complete if Known

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 2

Application Number	09/404,979
Filing Date	September 22, 1999
First Named Inventor	GOPAL
Art Unit	1636
Examiner Name	T. McKelvey
Attorney Docket Number	20728.101PTUS

U.S. PATENT DOCUMENTS

Examiner Initials *	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code ² (if known)			
		US- 5,972,900	06-03-1996	Ferkol, Jr.	
		US- 5,593,866	12-20-1995	Hancock et al.	
		US- 5,674,704	05-06-1994	Goodwin et al.	
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FOREIGN PATENT DOCUMENTS

Examiner Initials *	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		Country Code ³ - Number ⁴ - Kind Code ⁵ (if known)				

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet

2

of

2

Complete if Known

Application Number	09/404,979
Filing Date	September 22, 1999
First Named Inventor	GOPAL
Group Art Unit	1636
Examiner Name	T. McKelvey
Attorney Docket Number	020728.0101PTUS

OTHER PRIOR ART -- NON PATENT LITERATURE DOCUMENTS

Examiner Initials *	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		SC35, accession #Q01130, NCBI database, entered April 1, 1993.	
		Chitinase A, accession #P29022, NCBI database, entered December 1, 1992.	
		Roget A to Z (1994). Harper Collins Pub.	
		Essentials of Molecular Biology (4 th Ed.) Malacinski, Jones and Barlett, Eds. (2003).	

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



GENAPP.002RA

(020728.0101)

PATENT

Applicant : Gopal) Group Art Unit: 1636
Reissue Appl. : 09/404,979)
Filed : September 22, 1999) **Declaration under**
For : PEPTIDE-MEDIATED) **Under 37 C.F.R. § 1.131**
GENE TRANSFER)
Examiner: McKelvey, T.)

Honorable Commissioner for Patents
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R. § 1.131

Dear Sir:

I, T. Venkat Gopal, Ph.D., hereby declare that:

1. I am the named inventor of the above-identified reissue application number 09/404,979.
2. I am the original, first, and sole inventor of the subject matter disclosed and claimed in the pending reissue application.
3. I understand that a rejection was made in the pending reissue application based on U.S. Patent No. 5,994,109 (filed June 3, 1995) and, alternatively, Smith et al. WIPO Application No. WO 93 18759 (published September 30, 1993).
4. As shown by the facts discussed in this declaration and the accompanying exhibits, the subject matter of the claims rejected in the pending reissue application was used for its intended purpose prior to the date September 30, 1993, the international application date of the Smith et al. reference.

5. All of the work discussed below was performed in the United States by, or on behalf of, myself prior to September 30, 1993.

6. Prior to September 30, 1993, a peptide was manufactured on my behalf by STAR Biochemicals, Inc., 20916 Higgins Court, Torrance, California, as I stated previously in my 131 declaration of June 16, 2003. The sequence of this synthetic peptide is nearly identical to the example sequence (Seq. ID No. 56) used in the original patent of the pending reissue application (column 10 of U.S. Patent No. 5,670,347). Attached as Exhibit 1 is a true and correct photocopy of an invoice from STAR Biochemicals for the production of the synthetic peptide, which has had the dates contained on the invoice redacted.

7. Prior to September 30, 1993, STAR Biochemicals provided a Certificate of Analysis demonstrating an amino acid analysis of the manufactured synthetic peptide, attached hereto as Exhibit 2. This analysis was consistent with that expected for the requested sequence.

8. Prior to September 30, 1993, I used the synthetic peptide manufactured by STAR Biochemicals to transfect several structural DNA sequences into mammalian cells. Attached as Exhibit 3 is a true and correct photocopy of pages from my laboratory notebook which has had dates contained on the invoice redacted and the letters A through F replacing certain redacted dates. The entries were made prior to September 30, 1993, documenting experiments performed with the synthetic peptide in the United States. The synthetic peptide manufactured by STAR Biochemicals, Inc. is referred to as "Expression-1" in the exhibit.

9. I understand that several claims in the pending reissue application still stand rejected because the Examiner of this application believes my declaration of 6/16/2003 did not show a reduction to practice of the invention as claimed. Therefore I have collected the attached

pages from my laboratory notebook that demonstrates additional proof of prior possession of the subject matter in the rejected claims prior to September 30, 1993.

10. The subject matter of claim 9 comprises the use of certain DNA structural sequences complexed with “Expression-1” (the synthetic peptide manufactured by STAR Biochemicals, Inc.). Specifically, wherein the DNA structural sequences comprises (a) a segment coding for SV40 large T antigen or polyoma large T antigen and (b) a transcription factor gene. At date A, which is prior to September 30, 1993, cells were transfected with Expression-1 complexed with the polyoma large T antigen encoding DNA sequence referred to as “LLT” in the exhibit and the E2F transcription factor-encoding DNA sequence referred to as “LE2F-1” in the exhibit. At date B, which is prior to September 30, 1993, I concluded from the results of the experiment that the invention worked for its intended purpose.

11. The subject matter of claims 10 and 11 comprise the use of DNA structural sequences which are oncogenes. As stated in the specification of my application, the polyoma large T antigen, the adenovirus E1A gene, and the SV40 large T antigen are all well-known oncogenes. At date A, which is prior to September 30, 1993, cells were transfected with Expression-1 complexed with the polyoma large T antigen encoding DNA sequence referred to as “LLT” in the exhibit. At date B, which is prior to September 30, 1993, I concluded that the invention worked for its intended purpose. At date C, which is prior to September 30, 1993, cells were transfected with Expression-1 complexed with the adenovirus E1A gene referred to as “LE1A” in the exhibit and with a DNA sequence encoding the SV40 large T antigen referred to as “LT1x” in the exhibit. At date D, which is prior to September 30, 1993, I concluded from the results of an ELISA assay for the expression of ELAM-1 and VCAM-1, that the invention worked for its intended purpose.

12. The subject matter of claim 12 comprises the use of certain DNA structural sequences complexed with “Expression-1” that are important for DNA synthesis. Illustrative of this is the E2F transcription factor-encoding DNA sequence referred to as “LE2F-1” in the exhibit. At date A, which is prior to September 30, 1993, I transfected cells with the E2F transcription factor encoding DNA sequence referred to as “LE2F-1” in the exhibit. At date B, which is prior to September 30, 1993, I concluded that the invention worked for its intended purpose.

13. The subject matter of claim 13 comprises the process for producing a transformed cell line using a structural sequence mentioned in claim 12. The notebook entry starting at date A illustrates the successful use of such a procedure using the E2F transcription factor-encoding DNA sequence referred to as “LE2F-1” in the exhibit. In the comment for date B, I indicated the process comprising use of LE2F-1 “give viable cells with extended life compared to untransfected cells.”

14. The subject matter of claim 14 comprises the process for producing a transformed cell line using the Expression-1 vector and DNA structural sequence comprising an oncogene. The oncogene LE1A (a plasmid coding for the adenovirus E1A gene) was co-transfected with either LTlx (SV40 large T antigen) or LLT (polyoma large T antigen) at date E in the exhibit. The process for transfecting the cells is described in the notebook entry, which was written prior to September 30, 1993. At date F, which is prior to September 30, 1993, I conclude that the invention works for its intended purpose. I commented that “Both transforming genes Tlx, LT with E1A can generate extended life cells,” demonstrating the success of a process described at date E.

15. Therefore, I believe that the invention of the rejected claims was reduced to practice in the United States prior to the reference dates cited by the Examiner, i.e., before June 3, 1995 in case of U.S. Patent No. 5,994,109 and before September 30, 1993 in the case of WIPO Application No. WO 93/18759.

16. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Respectfully submitted,

Dated: 3/8/04

By: T. Venkat Gopal
T. Venkat Gopal